

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK----- x  
AMERICAN DECORATIVE FABRICS, LLC,

Plaintiff,

Civil Action No. 10 CV ~~7423~~ 7432

(SAS)

v.

VICTORIA CLASSICS, LTD.,

**SCHEDULING ORDER**

Defendant.

Conference Date: Dec. 8, 2010

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WHEREAS, the Court issued an Order for a Conference in accordance with Fed R. Civ. P. 16(b) on November 10, 2010 (the "Order"); and

WHEREAS, the Order requires that the parties jointly prepare and sign a proposed scheduling order containing certain information;

NOW, THEREFORE, the parties hereby submit the following information as required by the Order:

1. (a) **Conference Date:** The Rule 16(b) conference for the above-captioned action is scheduled for December 8, 2010 at 4:30 p.m. in Courtroom 15C.

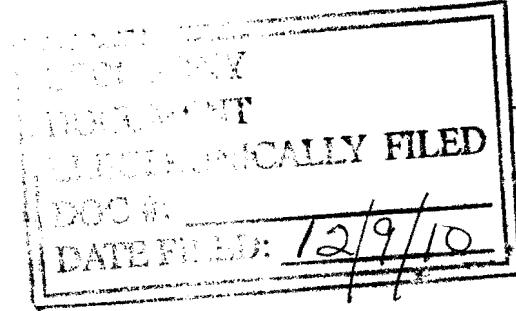
(b) **Appearances:**

Plaintiff: Eric J. Shimanoff (ejs@cll.com)  
Cowan, Liebowitz & Latman, P.C.  
1133 Avenue of the Americas  
New York, New York 10036  
Tel: (212) 790-9255

Defendant: Scott Gelin (gelins@gtlaw.com)  
Greenberg Traurig LLP  
200 Park Avenue  
New York, New York 10166  
Tel: (212) 801-2191

2. **Issues Presented:**

**Plaintiff:** Did the defendant infringe plaintiff's registered copyright in an original fabric design known as "Jupiter" by manufacturing, importing, selling, offering



for sale, advertising, promoting and distributing bedding and home textile products bearing a design copied from and substantially similar to the Jupiter design?

**Defendant:** Does plaintiff own a valid copyright registration? Is plaintiff's "Jupiter" fabric design an original work? Which elements of plaintiff's fabric design are protectible? Which elements of plaintiff's fabric design are in the public domain? Is there substantial similarity between the defendant's alleged infringing design and the protectible elements of plaintiff's fabric design?

3. **Discovery Schedule:**

(a) **Persons to be deposed and schedule of planned depositions:**

**Plaintiff** will depose the following persons:

(A) Victoria Classics, Ltd. by 30(b)(6) witness(es) and other witness(es) with knowledge concerning the design, manufacture, importation, sale, offering for sale, advertising, promotion and distribution of, and the revenue derived from, the allegedly infringing goods.

**Defendant** will depose the following persons:

(A) American Decorative Fabrics, LLC by 30(b)(6) witness(es) and other witnesses with knowledge concerning the design, manufacture, importation, sale, offering for sale, advertising, promotion and distribution of plaintiff's fabric design, the procurement of a copyright registration for the fabric design, plaintiff's discovery of the alleged infringement and damage to plaintiff from alleged infringement.

*Plaintiff Deposition: Dec. 22, 2010*  
All depositions will be completed on or before April 15, 2011.

(b) **Schedule for the Production of Documents:** The parties shall serve their first round of document demands on or before December 31, 2010. Production of documents shall be completed on or before March 18, 2011.

(c) (i) **Experts' Reports:** All expert reports shall be served on or before May 6, 2011. All expert rebuttal reports shall be served on or before June 3, 2011.

(ii) **Experts' Depositions:** The depositions of all experts will be completed on or before June 24, 2011.

(d) **Discovery Cut-Off:** Discovery will be completed on or before June 24, 2011.

(e) **Deadline for Plaintiff to Supply its Pre-Trial Order Matters to Defendants:**  
July 22, 2011.

(f) **Deadline for Parties to Submit Pre-Trial Order, Trial Briefs and Either (1) Proposed Findings of Fact and Conclusions of Law or (2) Proposed Voir Dire Questions and Proposed Jury Instructions:** August 26, 2011.

(g) **Final Pre-Trial Conference:** The final pre-trial conference will be held on June 10 at 4:30.

4. **Limitations to be Placed on Discovery:** Documents designated as confidential to be produced under a standard protective order. Highly confidential documents to be designated "Attorneys' Eyes Only" to be produced under a standard protective order.

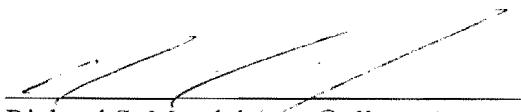
5. **Discovery Issues Presently Existing:** Defendant has stated that it intends to seek bifurcation of liability and damages discovery. Plaintiff opposes such bifurcation.

6. **Anticipated Fields of Expert Testimony:** Originality of respective designs; Elements of respective designs in public domain; Similarity of designs; Damages.

7. **Anticipated Length of Trial:** The parties expect the trial to take approximately three trial days. — June

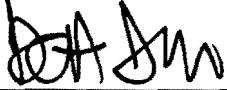
8. **Statement Regarding the Amendment of this Scheduling Order:** The parties acknowledge that the Scheduling order may be altered or amended only on a showing of good cause not foreseeable at the time of the conference or when justice so requires.

COWAN, LIEBOWITZ & LATMAN, P.C.

By: 

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Attorneys for Defendant

SO ORDERED:

  
SHIRA A. SCHEINDLIN, U.S.D.J.

12/8/10